

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO.: 10-cr-20397
Honorable Gerald E. Rosen

v.

VIOLATIONS: 18 U.S.C. §1951(a),2
18 U.S.C. § 924(c)(1)(A)
18 U.S.C. § 111
18 U.S.C. 922(g)(1)

D-2 ~~FRANK RICHARDSON~~
D-3 ~~JEROME ANDREWS~~
D-4 ~~TEVIN BIVENS~~
D-5 ~~DERRICK BIVENS~~
D-6 ~~MONTEZ FAILS~~
D-1 ~~DERICK SHIRLEY,~~

Defendant.

U.S. DIST. COURT CLERK
EAST DIST. MICH.
DETROIT-PSG

10 AUG 10 AM 1:50

FILED

FIRST SUPRESEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

(18 U.S.C. §1951(a) - *Interference with Commerce by Robbery*)

D-2 ~~FRANK RICHARDSON~~
D-3 ~~JEROME ANDREWS~~
D-4 ~~TEVIN BIVENS~~
D-5 ~~DERRICK BIVENS~~
D-6 ~~MONTEZ FAILS~~

That on or about May 28, 2010, in the Eastern District of Michigan, Southern Division, defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and MONTEZ FAILS, did unlawfully obstruct, delay, and affect interstate commerce, and the movement of articles and commodities in such commerce,

by robbery of a retail store; to-wit: Radio Shack, in Eastpointe, Michigan in that defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and MONTEZ FAILS did, together and while aiding and abetting each other, unlawfully take cellular telephones and a television from the presence of store employees and against their will by means of actual and threatened force, violence and fear of injury; that is: defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and MONTEZ FAILS robbed the employees at gun point, all in violation of Title 18, United States Code, §§1951(a) and (2).

COUNT TWO

(18 U.S.C. §924(c) – Use of a Firearm During and in Relation to a Crime of Violence)

D-2 D-1 FRANK RICHARDSON
D-3 D-2 JEROME ANDREWS
D-4 D-3 TEVIN BIVENS
D-5 D-4 DERRICK BIVENS
D-6 D-5 MONTEZ FAILS

That on or about May 28, 2010, in the Eastern District of Michigan, Southern Division, the defendants, FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and MONTEZ FAILS, did intentionally use and carry a firearm, during and in relation to the commission of a crime of violence for which the defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and MONTEZ FAILS may be prosecuted in a court of the United States, that is, interference with commerce by robbery, as alleged in Count One of this indictment; all in violation of Title 18, United States Code, § 924(c).

COUNT THREE

(18 U.S.C. §111 – Assault, Resisting, or Impeding Certain Officers)

4
D-1 TEVIN BIVENS

That on or about May 28, 2010, in the Eastern District of Michigan, Southern Division, the defendant, TEVIN BIVENS, knowingly and by means of a use of a dangerous weapon, that is, a motor vehicle, did forcibly assault, resist, oppose, impede, intimidate, and interfere with Michael Coleman, a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, with the attempt to commit another felony, to wit: felonious assault while Michael Coleman was engaged in his official duties, all in violation of Title 18, United States Code §111.

COUNT FOUR

(18 U.S.C. §922(g) - Felon in Possession of a Firearm)

2
D-1 FRANK RICHARDSON

That on or about May 28, 2010, in the Eastern District of Michigan, Southern Division, the defendant, FRANK RICHARDSON, after having been convicted of a crime punishable by a term of imprisonment exceeding one year, a felony offense, did knowingly and unlawfully possess a firearm, to wit: one Smith and Wesson, Model 439, .9mm semi-automatic pistol, which was manufactured outside of the State of Michigan

and thus had previously traveled in interstate commerce, all in violation of Title 18,
United States Code §922(g)(1).

COUNT FIVE

(18 U.S.C. §1951(a) - *Interference with Commerce by Robbery*)

D-2 D-1 FRANK RICHARDSON
D-3 D-2 JEROME ANDREWS
D-4 D-1 TEVIN BIVENS
D-5 D-1 DERRICK BIVENS
D-1 D-6 DERICK SHIRLEY

That on or about May 8, 2010, in the Eastern District of Michigan, Southern Division, defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY, did unlawfully obstruct, delay, and affect interstate commerce, and the movement of articles and commodities in such commerce, by robbery of a retail store; to-wit: T-Mobile, 14304 Gratiot Ave., Detroit, Michigan in that defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY did, together and while aiding and abetting each other, unlawfully take cellular telephones and United States currency from the presence of store employees and against their will by means of actual and threatened force, violence and fear of injury; that is: defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY robbed the employees at gun point, all in violation of Title 18, United States Code, §§1951(a) and (2).

COUNT SIX

(18 U.S.C. §924(c) – Use of a Firearm During and in Relation to a Crime of Violence)

D-2 D-1 FRANK RICHARDSON
D-3 D-2 JEROME ANDREWS
D-4 D-3 TEVIN BIVENS
D-5 D-4 DERRICK BIVENS
D-6 D-5 DERICK SHIRLEY

That on or about May 8, 2010, in the Eastern District of Michigan, Southern Division, the defendants, FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY, did intentionally use and carry a firearm, during and in relation to the commission of a crime of violence for which the defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY may be prosecuted in a court of the United States, that is, interference with commerce by robbery, as alleged in Count Five of this indictment; all in violation of Title 18, United States Code, § 924(c).

COUNT SEVEN

(18 U.S.C. §1951(a) - Interference with Commerce by Robbery)

D-2 D-1 FRANK RICHARDSON
D-3 D-2 JEROME ANDREWS
D-4 D-3 TEVIN BIVENS
D-5 D-4 DERRICK BIVENS
D-6 D-5 DERICK SHIRLEY

That on or about March 3, 2010, in the Eastern District of Michigan, Southern Division, defendant FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS,

DERRICK BIVENS and DERICK SHIRLEY, did unlawfully obstruct, delay, and affect interstate commerce, and the movement of articles and commodities in such commerce, by robbery of a retail store; to-wit: T-Mobile, 18470 Livernois, Detroit, Michigan in that defendant FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY did, individually and while aiding and abetted each other, unlawfully take cellular telephones from the presence of store employees and against their will by means of actual and threatened force, violence and fear of injury; that is: defendant FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY robbed the employees at gun point, all in violation of Title 18, United States Code, §§ 1951(a) and (2).

COUNT EIGHT

(18 U.S.C. §924(c) – Use of a Firearm During and in Relation to a Crime of Violence)

D-2 D-1 FRANK RICHARDSON
D-3 D-2 JEROME ANDREWS
D-4 D-3 TEVIN BIVENS
D-5 D-4 DERRICK BIVENS
D-1 D-5 DERICK SHIRLEY

That on or about March 3, 2010, in the Eastern District of Michigan, Southern Division, the defendants, FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY, did intentionally use and carry a firearm, during and in relation to the commission of a crime of violence for which the defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY may be prosecuted in a court of the United

States, that is, interference with commerce by robbery, as alleged in Count Seven of this indictment; all in violation of Title 18, United States Code, §924(c).

COUNT NINE

(18 U.S.C. §1951(a) - *Interference with Commerce by Robbery*)

D-2 D-1 FRANK RICHARDSON
D-3 D-2 JEROME ANDREWS
D-4 D-3 TEVIN BIVENS
D-5 D-4 DERRICK BIVENS
D-1 D-6 DERICK SHIRLEY

That on or about February 22, 2010, in the Eastern District of Michigan, Southern Division, defendant FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY, did unlawfully obstruct, delay, and affect interstate commerce, and the movement of articles and commodities in such commerce, by robbery of a retail store; to-wit: T-Mobile, 12555 Grand River Ave., Detroit, Michigan in that defendant FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, and DERRICK BIVENS did, individually and while aiding and abetting each other, unlawfully take cellular telephones and United States currency from the presence of store employees and against their will by means of actual and threatened force, violence and fear of injury; that is: defendant FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, DERRICK BIVENS and DERICK SHIRLEY robbed the employees at gun point, all in violation of Title 18, United States Code, §§1951(a) and (2).

COUNT TEN

(18 U.S.C. §924(c) – Use of a Firearm During and in Relation to a
Crime of Violence)

D-2 D-1 FRANK RICHARDSON
D-3 D-2 JEROME ANDREWS
D-4 D-3 TEVIN BIVENS
D-5 D-4 DERRICK BIVENS
D-1 D-6 DERRICK SHIRLEY

That on or about February 22, 2010, in the Eastern District of Michigan, Southern Division, the defendants, FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, and DERRICK BIVENS, did intentionally use and carry a firearm, during and in relation to the commission of a crime of violence for which the defendants FRANK RICHARDSON, JEROME ANDREWS, TEVIN BIVENS, and DERRICK BIVENS, may

be prosecuted in a court of the United States, that is, interference with commerce by robbery, as alleged in Count Seven of this indictment; all in violation of Title 18, United States Code, §924(c).

THIS IS A TRUE BILL.

Dated: 8/10/2010

S/ Grand Jury Foreperson
Grand Jury Foreperson

BARBARA L. MCQUADE
United States Attorney

s/ John N. O'Brien II
JOHN N. O'BRIEN
Chief, Violent and Organized Crimes Unit
john.obrien@usdoj.gov

s/ Jeanine Jones
JEANINE JONES
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Assistant U.S. Attorney
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Detroit, Michigan
313-226-9715

United States District Court Eastern District of Michigan	Criminal Case Cover Sheet	Case Number
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

[REDACTED] This matter was opened in the USAO prior to August 15, 2008 []

[REDACTED]	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
<input type="checkbox"/> Yes <input type="checkbox"/> No	AUSA's Initials:

Case Title: US ^Z-D-~~1~~ FRANK RICHARDSON, D-^Z JEROME ANDREWS, D-^Y TEVIN BIVENS
D-~~4~~ DERRICK BIVENS, D-~~3~~ MONTEZ FAILS, D-~~6~~ DERICK SHIRLEY

County where offense occurred : Wayne

Check One: ☒ **Felony** ☐ **Misdemeanor** ☐ **Petty**

☐ Indictment/ ☐ Information — no prior complaint.
☐ Indictment/ ☐ Information — based upon prior complaint [Case number:]
☒ Indictment/ ☐ Information — based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

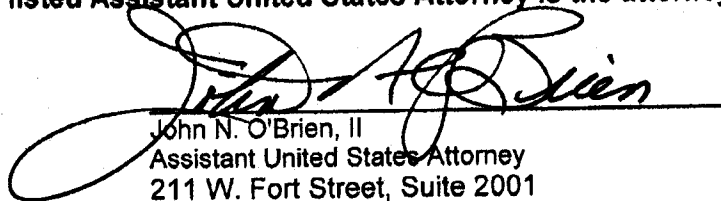
Superseding to Case No: 10-CR-20397 **Judge:** Rosen

☐ Original case was terminated; no additional charges or defendants.
☐ Corrects errors; no additional charges or defendants.
☐ Involves, for plea purposes, different charges or adds counts.
☐ Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
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Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

August 10, 2010
Date


 John N. O'Brien, II
 Assistant United States Attorney
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 Detroit, MI 48226-3277
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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.